

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re  LEHMAN BROTHERS HOLDINGS INC., <i>et al.</i> ,  Debtors.	CHAPTER 11  Case No. 08-13555 (SCC)
LEHMAN BROTHERS HOLDINGS INC.,  Plaintiff,  v.  1st ADVANTAGE MORTGAGE, L.L.C., <i>et al.</i> ,  Defendants.	Adv. Proc. No. 16-01019 (SCC)
AND COORDINATED ADVERSARY PROCEEDINGS	

**DECLARATION OF BRANT D. KUEHN IN SUPPORT OF LEHMAN BROTHERS  
HOLDINGS INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT  
ON NOTICE OF SETTLEMENT OF RMBS CLAIMS**

Brant D. Kuehn, under penalty of perjury, hereby declares:

1. I am a partner at the law firm Wollmuth Maher & Deutsch LLP, counsel for Plaintiff in the above-captioned adversary proceeding. I am familiar with the facts set forth herein on the basis of my personal knowledge and my review of documents in the possession of my firm.
2. I submit this declaration in support of Plaintiff Lehman Brothers Holdings Inc.'s Motion for Partial Summary Judgment on Notice of Settlement of RMBS Claims.

3. Annexed hereto as Exhibit 1 is a true and correct copy of the Order Estimating Allowed Claim Pursuant to RMBS Settlement [Case No. 08-13555 (SCC), Dkt. No. 57785],<sup>1</sup> dated March 15, 2018, produced in this Action<sup>2</sup> beginning at LBHI-OMNI\_7689501.

4. Annexed hereto as Exhibit 2 is a true and correct copy of the Affidavit of Service of Forrest Kuffer, Noticing Coordinator of Epiq Bankruptcy Solutions, LLC [Dkt. No. 55242], dated May 1, 2017, and produced in this Action beginning at LBHI-OMNI\_1856336.

5. Annexed hereto as Exhibit 3 is a true and correct copy of the Order Approving RMBS Settlement Agreement and Including Certain Proposed Finding of Fact and Conclusions of Law [Dkt. No. 55706], dated July 6, 2017, and produced in this Action beginning at LBHI-OMNI\_7689672.

6. Annexed hereto as Exhibit 4 is a true and correct copy of the Transcript of the July 6, 2017 Hearing [Dkt. No. 57504] produced in this Action beginning at LBHI-OMNI\_7689437.

7. Annexed hereto as Exhibit 5 is a true and correct copy of a Wall Street Journal article titled “Mortgage Trustees Accept Lehman’s \$2.4 Billion Bankruptcy Offer”, dated June 2, 2017, and produced in this Action beginning at LBHI-OMNI\_7689686, which, as of March 17, 2020, is also available at <https://www.wsj.com/articles/mortgage-trustees-accept-lehmans-2-4-billion-bankruptcy-offer-1496416193>.

8. Annexed hereto as Exhibit 6 is a true and correct copy of the transcript of the estimation hearing, commenced on November 20, 2017, regarding claims asserted by trustees for

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<sup>1</sup> All citations to “Dkt. No. \_” refer to the central bankruptcy proceeding docket, In re Lehman Brothers Holdings Inc., Case No. 08-13555 (SCC), unless otherwise provided. Citations to the record in other relevant proceedings will identify the proceeding case number and reference to “Dkt. No.\_.”

<sup>2</sup> The term “Action” shall refer to the central adversary proceeding docket, No. 16-01019, in the coordinated adversary proceedings.

certain residential mortgage backed securities, and produced in this Action beginning at LBHI-OMNI\_1856501.

9. Annexed hereto as Exhibit 7 is a true and correct excerpted copy of Section 7 of the Aurora Seller's Guide, dated August 12, 2005, and produced in this Action beginning at LBHI-OMNI\_0003712.

10. Annexed hereto as Exhibit 8 is a true and correct copy of an exemplar Loan Purchase Agreement, by and between Lehman Brothers Bank, FSB and Universal America Mortgage Company, LLC, dated September 20, 2005, and produced in this Action beginning at LBHI-OMNI\_0102072.

11. Annexed hereto as Exhibit 9 is a true and correct copy of the Notice of Motion of Lehman Brothers Holdings Inc. for Entry of Order (A) Approving RMBS Settlement Agreement, (B) Making Certain Required Findings Regarding Decision of RMBS Trustees and LBHI Debtors to Enter into RMBS Settlement Agreement, (C) Scheduling Estimation Proceeding to Determine RMBS Claims and Approving Related Procedures Regarding Conduct of Hearing, and (D) Granting Related Relief [Dkt. No. 55232], dated April 27, 2017, and produced in this Action beginning at LBHI-OMNI\_0093685.

12. Annexed hereto as Exhibit 10 is a true and correct copy of the "List of All Defendants," which summarizes voluminous records under Federal Rule of Evidence 1006 and made applicable by Rule 9017 of the Federal Rules of Bankruptcy Procedure. This list summarizing all defendants and their adversary proceeding numbers was prepared under my direction and supervision. To prepare this list, Plaintiff's internal records were reviewed to identify active defendants. Additionally, Kuehn Decl. Ex. 2, which was produced to defendants

beginning at LBHI-OMNI\_1856336, was reviewed to determine which defendants received notice of the RMBS Settlement.

13. The current adversary proceedings cover only a fraction of the mortgages and the mortgage originators covered by the Order Estimating Allowed Claim Pursuant to RMBS Settlement.

14. The originators of the majority of the loans covered by the Order Estimating Allowed Claim Pursuant to RMBS Settlement appear to be defunct, and LBHI likely cannot enforce the indemnification obligations of those entities.

15. LBHI spent millions of dollars over the course of several years defending claims by the RMBS Trustees.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
March 17, 2020

  
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Brant Duncan Kuehn